

Paul K. Downes - Press

County sued over fatal VA van crash

by Nick Ferraro, November 14, 2008

Three civil lawsuits have been filed against Chisago County in connection with a 2007 crash that involved a county van transporting veterans from the VA Medical Center at Fort Snelling.

Motorist Bobby Tomlin, of Mahtomedi, was killed in the crash on Interstate 35W in New Brighton, and veterans Richard Kerr and Robert Butte were injured.

Van driver Richard Carroll, who worked for Chisago County's Veterans Services program, lost consciousness at the wheel and also died.

The lawsuits, filed in Ramsey County District Court, have been brought by Tomlin's widow and by Kerr and Butte.

Attorney Paul Downes, who is representing Jessica Tomlin, argues in court documents that Chisago County is responsible because of its "negligent hiring and retention" of Carroll, 78, who had a documented history of heart trouble.

An autopsy report lists Carroll's cause of death as multiple traumatic injuries due to the head-on collision. Atherosclerotic cardiovascular disease is listed as a contributing condition.

According to a Minnesota State Patrol report of the April 3, 2007, crash, the 1998 Ford transport van was northbound when Carroll lost consciousness and the van crossed the median, struck a car in a southbound lane and hit the front of Tomlin's cargo van at the ramp to County Road 88.

A father of four young children, Tomlin, 38, was killed instantly. According to complaints filed by their attorneys, Kerr, who was then 83, "sustained multiple fractures to the left side of his body" and Butte, then 76, "suffered serious and permanent injuries to his left leg, right chest, lungs, ribs and entire body."

Butte testified in a court deposition that he saw Carroll "collapsing and coming over to the side" toward Kerr, who was in the front seat. When asked if he heard Carroll say anything or make a noise, Butte said he hadn't.

Attorney Stephen Anderson, who is representing the county, argues that Carroll's loss of consciousness was not foreseeable and that he was cleared to drive during an annual county-required physical exam a month before the accident.

Jim Halstrom, who oversees the county's veterans van service, testified in a deposition that before an employee is hired, the county requires clearance by a doctor, which since 2004 has been done by the VA Medical Center. He said the first time he knew of Carroll's heart condition was when he testified.

Halstrom said he hired Carroll, a retired St. Paul firefighter and World War II veteran, in January 2004.

According to court documents, Carroll was diagnosed with calcific aortic stenosis that was described as "severe" in February 2004. Carroll was made aware at that time, attorney Downes argues, that the condition could cause dizziness, fainting or heart failure.

According to medical records, Carroll was examined by a VA doctor for chest pain in May 2005. An echocardiogram in August of that year showed that Carroll had reduced blood flow to the heart, Downes wrote.

At an August hearing on Tomlin's lawsuit, Ramsey County District Judge Steven Wheeler continued a motion to dismiss the case so depositions could be taken from personnel at the VA hospital who had treated or examined Carroll.

The case is also the subject of mediation, and a hearing in that process is scheduled for Dec. 22 in Minneapolis.